IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

LETTERS PATENT APPEAL NO.16 OF 2007
IN
WRIT PETITION NO.2878 OF 2003

Shri Maruti Govind Koneri .. Appellant

Vs.

The Secretary, Seva Ashram
Shikshan Sanstha & Ors. .. Respondents

WITH

LETTERS PATENT APPEAL NO.25 OF 2007
IN
WRIT PETITION NO.2876 OF 2003

Jagannath Purushottam Patil .. Appellant

Vs.

The Secretary, Seva Ashram
Shikshan Sanstha & Ors. .. Respondents

Mr.M.V.Bandiwadekar for the appellant

Mr.D.B.Patil for the respondent no.1 and 2

Mr.R.M.Patne, A.G.P. for the respondent no.3 and 4

CORAM : J.N.PATEL &
SMT.R.S.DALVI, JJ.

DATED : 10TH APRIL, 2007

P.C.:

1. Heard.

2. The Letters Patent Appeals are preferred by the former employees / Assistant Teachers of the respondent institution being aggrieved by the decision of the School Tribunal and the learned single Judge which resulted in dismissal of their appeals which was filed challenging their termination.

3. The School Tribunal on the basis of evidence placed before it and the learned single Judge found that the appointment of the appellants were purely on temporary basis and the post of Assistant Teachers was reserved for Schedule Caste and, therefore, their termination of service does not call for any interference.

4. The impugned decision is challenged in these appeals primarily on two grounds. Firstly, that the appellants having put in more than 5 years of service, they are deemed to be permanent employees but mere continuity in service of 5 years does not confer permanency to the appellants and

secondly, that it was never informed to them that they are been appointed against the vacancies reserved for schedule caste and even if that is accepted, the appellants belong to other backward caste and their services could have been absorbed against the vacancies meant for reserved category candidates by rotating the roaster.

5. It is an undisputed fact that while appointing the appellants, the procedure as provided in the rules was not followed. The appellants were appointed by the management without being interviewed by the School Committee and admittedly, their appointment was of temporary nature and therefore, they cannot claim benefit of section 5(2) of the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977 and Rules 1981. Therefore, we do not find that the School Tribunal or the learned single Judge has committed any error or illegality in dismissing their appeal. Both the Letters Patent Appeals stand dismissed.

6. The learned counsel for the respondent

management states that they would abide by the undertaking given before the learned single Judge by depositing the amount in this court within two weeks time.

(SHRI J.N. PATEL, J)

(SMT. R.S. DALVI, J)